

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 3112 OF 2007

Ashok H. Koli ... Petitioner

V/s

Maharashtra State Road Transport Corporation & ors. ... Respondents

Mr. V.M. Parkar for the petitioner.

Mr. G.S. Hegde for the respondents.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 25TH JULY, 2007.

P.C.:

1. The petition challenges the order of the Industrial Court passed in Revision Application (ULP) No. 34 of 2006 and the order of the Labour Court in Complaint (ULP) No. 338 of 2002.

2. The petitioner had filed the complaint after he received the show cause notice dated 24.11.2002 from the reviewing authority, calling upon him to explain as to why he should not be dismissed from service. The Labour Court and the Industrial Court had both taken the view that issuance of such a show cause notice is permissible

and that the petitioner ought to have filed the reply to the show cause notice before approaching the Court.

2. The learned advocate for the petitioner submits that the petitioner may be given an opportunity to reply to the show cause notice now. He submits that, in the event it is held that the petitioner should be dismissed from service, that order should not be implemented for a period of 15 days in order to enable the petitioner to challenge the decision taken by the employer.

3. The complaint has been dismissed by the Labour Court in view of the fact that it had been filed prematurely. The Industrial Court has also taken the same view. Apart from this, both the Courts below have found that the proposed punishment of dismissal would not be shockingly disproportionate.

4. In the interest of justice, after hearing the learned advocates for both parties, I am of the view that the following order would suffice:-

(a) The petitioner will file a reply to the show cause notice dated 24.11.2002 within 15 days from today.

(b) The petition shall be heard by the reviewing authority and order shall be passed thereafter.

(c) In the event, the reviewing authority finds that it is necessary to dismiss the petitioner, the Corporation will not implement the order of dismissal for a period of 15 days after the order is passed.

(d) The reviewing authority will decide the dispute uninfluenced by any observations made either by the Labour Court in Complaint (ULP) No. 338 of 2002 or by the Industrial Court in Revision Application (ULP) No. 34 of 2006.

(e) If the petitioner challenges such a dismissal order, he may do so after notice to the respondent Corporation.

5. In the event the dismissal order is challenged, no interim order will be granted merely on the ground that the petitioner has continued in service because of earlier interim orders.

6. Petition disposed of accordingly.

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